

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,  
  
v.  
  
FRANCISCO ANTONIO PALIN-ROSARIO,  
  
Defendant.

No. 21-cr-751 (RA)

MEMORANDUM  
OPINION & ORDER

RONNIE ABRAMS, United States District Judge:

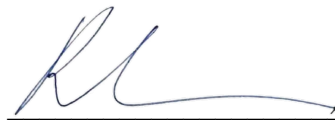
On March 1, 2024, Defendant Francisco Antonio Palin-Rosario filed a motion to dismiss the indictment, Dkt. 21, which charged him with one count of illegal reentry in violation of 8 U.S.C. § 1326(a) and (b)(2). The motion raised a single argument: that Section 1326 violates the equal protection clause of the Fifth Amendment because it was “enacted with explicit and vicious racial animus against Latinos.” *Id.* at 1. Because an appeal raising that exact issue was pending before the Second Circuit, *United States v. Suquilanda*, No. 22-1197, the Court held the motion in abeyance pending a decision in that appeal.

On September 13, 2024, the Second Circuit issued its opinion in *Suquilanda*, holding that Section 1326 does not violate the Fifth Amendment’s equal protection guarantee. *See United States v. Suquilanda*, 116 F.4th 129, 144–45 (2d Cir. 2024). The Circuit then denied that defendant’s petition for rehearing *en banc* on January 7, 2025.

*Suquilanda* expressly forecloses Palin-Rosario’s motion here, given its holding that “§ 1326 does not violate the Fifth Amendment.” *Id.* at 145. Because that is now the binding law of this Circuit, Palin-Rosario’s motion to dismiss the indictment is denied.

SO ORDERED.

Dated: February 20, 2025  
New York, New York

  
\_\_\_\_\_  
Ronnie Abrams  
United States District Judge